IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 29691 of 2006(I)

PETITIONER:

MRS. JULIE GEORGE, D/O. GEORGE,
AGED 47, MALATHURUTHIL HOUSE,
AZHEEKAL P.O., ERNAKULAM.

BY ADV. SRI.K.P.MADHU

RESPONDENTS:

COCHIN CORPORATION, REPRESENTED BY
ITS SECRETARY, CORPORATION BUILDING,
COCHIN.

BY ADV. SRI.K.ANAND, SC, COCHIN CORPN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.29691/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF RECEIPT DEPOSTING ADVANCE KIST DT.22.3.06

EXT.P2 – TRUE COPY OF LETTER GIVEN BY FEDERAL BANK, OCHANTHURUTHU BRANCH DT.22.6.06.

EXT.P2(A) – TRUE COPY OF LETTER GIVEN BY DO. DT.22.6.06

EXT.P3 – TRUE COPY OF RECEIPT DEPOSITING RS.6000/- DT.28.3.06 ISSUED BY RESPONDENT.

EXT.P4 – TRUE COPY OF REPRESENTATION SUBMITTED BY PETR. BEFORE RESPONDENT DT.12.4.06

EXT.P5 – TRUE COPY OF RECEIPT OF EXT.P4 REPRESENTATION ISSUED BY RESPONDENT DT.12.4.06

EXT.P6 – TRUE COPY OF RECEIPT OF PAYMENT OF THE KIST AND PENAL INTEREST FOR THE MONTH OF APRIL, 2006 ISSUED BY RESPONDENT.

EXT.P7 – TRUE COPY OF RECEIPT FOR PAYMENT OF KIST FOR MAY, 2006 ISSUED BY RESPONDENT.

EXT.P8 – TRUE COPY OF REPRESENTATION SUBMITTED BY PETR. BEFORE RESPONDENT DT.1.6.06.

EXT.P9 – TRUE COPY OF REPRESENTATION SUBMITTED BY PETR. BEFORE RESPONDENT DT.18.9.06.

EXT.P10 – TRUE COPY OF NOTICE DT.4.11.06 ISSUED BY RESPONDENT TO PETR.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C) No.29691 OF 2006

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DATED THIS THE 23rd FEBRUARY, 2007

J U D G M E N T

Ext.P10 notice issued by the Corporation directing the petitioner who is the contractor for the conduct of the Corporation's comfort station at Ernakulam market to pay the defaulted monthly payments for the months of September and October together with penal interest is under challenge. The petitioner has a grievance that even though it was the obligation of the Corporation to keep the comfort station under proper repair, in spite of several representations such Exts.P4, P8 and P9, the Corporation has not attended to the repairs at all.

2. Heard Sri.K.P.Madhu, counsel for the petitioner and Mr.K.Anand, counsel for the Corporation.

3. It is conceded before me that during the pendency of the Writ Petition, the amounts demanded by the Corporation under Ext.P10 was paid by the petitioner and therefore there is no immediate threat from the Corporation of terminating the contract. But counsel for the petitioner submits that it was not all legal on the part of the Corporation to have collected penal interest from the petitioner when the Corporation was retaining excess amounts (three months' charges)

as advance apart from the bank guarantee of Rs.1 lakh furnished by the petitioner.

4. I do not propose to decide the issue of the petitioner's liability to pay penal interest. Ext.P9 appears to be a comprehensive representation. The Corporation will consider Ext.P9 in the light of the various grounds raised in the Writ Petition, hear the petitioner and take a decision on Ext.P9. Decision as directed above will be taken by the Corporation within two months of receiving copy of this judgment.

The Writ Petition is disposed of as above. No costs.

(PIUS C. KURIAKOSE, JUDGE)

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